

# Ivor M. Hughes

Barrister & Solicitor

Patent & Trade Mark Agents  
Canada, United States

MAY 06 2008

Ref: PT2116001

May 5, 2008

Barristers & Solicitors  
Ivor M. Hughes  
Rick Tuzi  
Jenene Roberts

Patent Agents  
Neil H. Hughes, P.Eng.  
Marcelo K. Sarkis, P.Eng.  
Wm. Kitt Sinden  
Samuel T. Tekie, P.Eng.  
Francis Ng-Cheng-Hin

## Via Courier

The Commissioner of Patents  
United States Patent and Trademark Office  
Customer Service Window, Mail Stop Issue Fee  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314  
U.S.A.

Dear Sir:

Re: **United States Patent Application No. 10/580,011**  
of Tim Fat Tam, Michael Spino, Wanren Li, Yingsheng Wang,  
Yanqing Zhao and Birenkumar Hasmukhbhai  
for Cycloalkyl Derivatives of 3-Hydroxy-4 Pyridinones  
Filed: **May 19, 2006**  
Due Date: **May 7, 2008**  
Customer No.: **23607**

Pursuant to a Notice of Allowance dated February 7, 2008, a copy of which is enclosed for your reference, Applicant respectfully submits a cheque in the amount of U.S. \$1,740.00 made payable to the **Director of the United States Patent and Trademark Office**, comprising \$1,440.00 for the issue fee for a large entity and \$300.00 for the publication fee. If there should occur an overpayment or an underpayment of fees in respect of this application, the Commissioner is authorized to access Deposit Account No. 08-3255 to make the appropriate adjustments.

Applicant also submits a completed PTOL-85 Fee(s) Transmittal Form, in duplicate.

Also enclosed herewith is a stamped, self-addressed verification card which we request that you kindly acknowledge and return to this office at the earliest opportunity.

We thank the Commissioner for his cooperation in this regard and look forward to obtaining issue notification in this matter.

Respectfully submitted,



Kitt Sinden

Registration No. 50,188

Agent for Applicant

jf

Enclosures



## Notice of Allowability

Application No.	Applicant(s)
10/580,011	TAM ET AL.
Examiner	Art Unit
Patricia L. Morris	1625

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 11/30/07.
2.  The allowed claim(s) is/are 1-12 and 16-18 (renumbered as 1-15).
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____. | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other <u>See Continuation Sheet</u> .                      |

Continuation of Attachment(s) 9. Other: Drawings filed 5/19/06 are accepted.

## REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The prior art does not teach or suggest the presence of at least one cycloalkyl group on the nitrogen atom of the dihydropyridine ring or on the nitrogen atom of the carboxamide substituent.

Claims 1-12 are directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claim 18, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, all the diseases set forth in claim 18 are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on November 2, 2007 is hereby withdrawn with respect to the method of uses. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

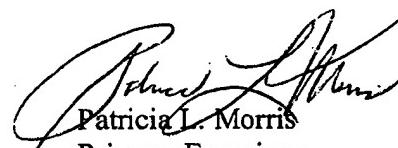
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Morris whose telephone number is (571) 272-0688. The examiner can normally be reached on Mondays through Fridays.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patricia L. Morris  
Primary Examiner  
Art Unit 1625

plm  
February 4, 2007